UNITED NATIONS **E**

Economic and Social Council

Distr.
GENERAL

E/C.12/2000/SR.66
14 March 2002

ENGLISH
Original: FRENCH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twenty-fourth session

SUMMARY RECORD OF THE 66th MEETING

Held at the Palais Wilson, Geneva,
on Monday, 20 November 2000, at 10 a.m.

Chairperson: Ms. BONOAN-DANDAN

CONTENTS

CONSIDERATION OF REPORTS

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Second periodic report of Belgium (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the meetings of the Committee at this session will be consolidated in a single corrigendum to be issued shortly after the end of the session.

GE.00-46185 (E) 110302 140302

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6) (continued)

Second periodic report of Belgium (continued) (E/1990/6/Add.18; E/C.12/CA/BEL/1; E/C.12/Q/BELG/1; HR/CESCR/NONE/2011; HRI/CORE/1/Add.1/Rev.1)

1. At the invitation of the Chairperson, the members of the delegation of Belgium took places at the Committee table.

Articles 8-15 of the Covenant

2. Mr. DE NEVE (Belgium), responding to questions posed at the previous meeting, said that the application of article 8 of the Covenant was ensured not only by the Court of Arbitration but also by the Council of State pursuant to a 1995 decision.

3. With regard to unemployment benefit, a 1981 law which established the general principles relating to social benefits was supplemented by specific legislation dealing with the different benefits. Unemployment benefits were regulated by a 1944 decree-law and a royal decree of 1991.

4. With regard to maternity protection, a royal decree of 1995 established a non-exhaustive list of activities that could be considered as hazardous for pregnant women. The 1996 law on well-being imposed an obligation on the employer to carry out a job evaluation in the event of risk. Following such an evaluation, conducted in cooperation with the occupational physician and the joint works committee for prevention and protection, or, in the absence of such a committee, with the trade union representatives, the pregnant woman might either be asked to continue working in her usual job, subject to any necessary adjustments, or be moved to a different job, or be released from work altogether. A woman who fell ill during her maternity leave continued to receive her maternity benefit.

5. Young workers - 15 to 18 years of age - were supposed to work for the same maximum number of hours as adults, namely 8 hours per day and 40 hours per week. However, as they were obliged to study part time, they in fact only worked part time.

6. Mr. SADI said that he understood that three Belgian citizens had been tried by the Belgian courts for sex crimes committed abroad. He asked whether appeals had been lodged against the sentences and, in particular, whether the constitutionality of the sentences had been reviewed. Were sex crimes the only crimes subject to legal proceedings in Belgium where the acts had been committed abroad?

7. Mr. RIEDEL said that Belgium had previously given refugees financial aid, but, as a result of abuse, such aid had been replaced by aid in kind (in particular, food and clothing).

Amnesty International and other non-governmental organizations had condemned the disastrous effects of the latter policy on the human dignity of refugees. He asked whether the State party had not considered a compromise solution; there was no call to punish all refugees because a few abused their status. Furthermore, bearing in mind the lack of housing in large towns, why had a 1993 law allowing communal authorities to requisition unoccupied housing and make it available to marginalized individuals never been applied? In addition, illegal residents in Belgium could regularize their situation but, if they did so, they would lose their job and their right to a pension under that job. Had all the consequences of regularization programmes been taken into account? Finally, what programmes had the State party established specifically to assist the mentally ill, bearing in mind that, according to European Commission and WHO figures, the incidence of mental illness was rising in Belgium and was much higher than the European average?

8. Mr. ANTANOVICH noted that, according to the European Commission, Belgian standards in health care were the most stringent in the European Union. That undoubtedly reflected the fact that health expenditure had represented 8.1 per cent of the State budget in the early 1990s. The Government had, however, stated that it was now seeking to reduce health expenditure. Could the delegation specify what practical steps the Government was planning to take? Could it also explain why the per capita number of hospital beds was below the European average? Was that because the per capita number of physicians and pharmacies was above the European average and that people were therefore in better health, or were there not enough beds to meet the population's needs?

9. Mr. DONIS (Belgium) replied that Belgium was having to deal with ever-increasing influxes of refugees. As the capacities of the two centres in Liege and Antwerp were no longer sufficient, new centres, some of which were run by the Red Cross and others by local public welfare offices, had been opened. In a statement to Parliament in October 2000, the Prime Minister had said that the best strategy for combating trafficking in human beings by criminal organizations, was to give refugees aid in kind rather than financial support. Such aid was thus being provided by decision of the Government and had not yet been established in law. The matter was now before Parliament. In any event, the State would cover medical expenses incurred by sick refugees.

10. Mr. DE NEVE (Belgium) confirmed that a procedure for legalizing the status of undocumented immigrants had been instituted, for which purpose every applicant was required to submit a statement. Only periods of legal employment subject to the payment of social security contributions were taken into account in calculating pensions. That appeared to be fair, and he did not think that more favourable measures would be adopted in the future.

11. Mr. VANDAMME (Belgium) said that the possibility, provided for under a 1993 law, of requisitioning unoccupied housing had been used on one occasion only. The explanation was twofold: on the one hand, the procedure was cumbersome, and, on the other, the 1993 law was at variance with regional provisions. For, while the federal State had decision-making power in the social welfare sphere, the allocation of housing lay within the purview of the regional authorities. Thus, in the Walloon Region, when a dwelling remained unoccupied by its owner for reasons of property speculation, a mutual agreement procedure could be initiated with a view to ensuring its occupation. Where agreement proved impossible, the judge could then impose a

management scheme. A slightly different approach was followed in Flanders, where the authorities were empowered to take over an unoccupied dwelling for rental, once the requisite inventory and survey had been carried out. In any event, the situation of the Belgian housing stock was far from unsatisfactory, and it was never a quick or easy matter to prove that a dwelling was wilfully being left unoccupied for reasons of property speculation.

12. Mr. NAYER (Belgium) added that the Housing Code adopted in 1998 in the Walloon Region pursued three major objectives. The first was to implement article 23 of the Constitution on the right to decent accommodation by giving preferential treatment to those in serious financial difficulty, by constructing housing, by developing individual aid schemes and by simplifying procedures for reducing the amount of unoccupied dwellings; the second was to frame municipal housing policies by drawing up municipal housing programmes and by laying down the requirement to obtain prior authorization from the communes for investment proposals for low-income housing; and the third was to promote the involvement of the population in housing policy by establishing transparent procedures and by creating owners' and tenants' advisory committees and a higher council on housing in charge of policy-making. Agencies for low-cost housing had also been set up in the Walloon Region with a view to promoting mediation.

13. Mr. AHMED recalled that in 1995 the Committee on the Rights of the Child had expressed concern about the fact that although unaccompanied minors whose asylum requests had been rejected by the Belgian authorities were permitted to remain in the country until they were 18, they incurred the risk of being denied their identity and certain rights, such as the right to education. He asked whether the delegation had any comments on that point.

14. Mr. RIEDEL drew the delegation's attention, inter alia, to General Comment No. 14 on the right to health, adopted in May 2000, and to various documents submitted by the WHO Regional Office for Europe, which might be of use to the State party in drafting its next periodic report.

15. Ms. JIMÉNEZ BUTRAGUEÑO said that she would like to know whether the adoption of the Flemish Housing Code had had any impact in practice on low-income housing, how many such housing units had been built, and what the eligibility requirements were. She also wondered whether the procedure for allocating units gave priority to low-income families or to families with more than five children.

16. Mr. VANDAMME (Belgium) said that unaccompanied minors were not simply abandoned but, rather, housed in a federal centre. The Government had also adopted a series of measures amending the procedure for handling asylum requests and providing for improved treatment of asylum-seekers. The Center for Equal Opportunity and Action to Combat Racism, which was competent to receive complaints from persons who believed they had been victims of discriminatory treatment, assisted persons who wished to undertake legal action.

17. Mr. DONIS (Belgium) explained that Belgium had introduced a number of measures to reduce health costs. It had increased financing sources for social security in general, and sickness insurance in particular: social insurance contributions, State subsidies, a levy of 1 per cent of value added tax receipts, contributions from the pharmaceutical industry,

which must contribute from 1 to 2 per cent of sales, and the introduction of the comprehensive medical record, which allowed older persons to entrust the management of their medical record to a general practitioner of their choice. Belgium had also introduced a pharmaceutical policy which favoured prescription of generic drugs. In addition it was emphasizing preventive medicine.

18. Mr. HUNT observed that the Committee's General Comment No. 13 on the right to education (art. 13 of the Covenant) stated that corporal punishment was incompatible with human dignity and that States parties were obliged to take measures to ensure that no educational institution, public or private, under their jurisdiction applied disciplinary measures that contravened the Covenant. He would like to know whether Belgian legislation allowed the use of such punishment. With regard to the role of human rights education in the Belgian educational system, Mr. Hunt welcomed the initiatives taken by the Flemish community within the context of the United Nations Decade for Human Rights. Turning to the matter of school absenteeism, he also requested the delegation to provide more information on the regulations adopted by the Flemish community to assist secondary school students in conflict with teaching institutions. He asked whether such measures applied to other communities, and how the State party guaranteed uniform application of the regulations in force.

19. Mr. DE NEVE (Belgium) said that Belgian legislation prohibited the use of corporal punishment, whether in the public or the private sector. He explained that the regulations adopted in September 1999 to assist young people in conflict with teaching institutions were intended to reduce the high absentee rate in secondary schools in the Flemish community. It was too soon to evaluate the results. Since it was the responsibility of communities to adopt teaching standards, they did not apply to the whole country. Legislators needed to introduce a set of minimum standards, in particular to ensure the equivalency of diplomas.

20. Mr. NAYER (Belgium) emphasized that each community determined the structure of its educational system, at all levels of instruction: kindergarten, primary and secondary school, and higher education. In reply to the question of whether foreign minors on Belgian territory were obliged to attend school, he said that the law applied equally to both foreign and Belgian children, as long as they were listed on the registry of foreigners and registered in the commune where they lived.

21. Mr. THAPALIA asked what measures had been taken by Belgium to provide educational and cultural opportunities to older persons and disabled persons. He would also like to know what the proportion was of women in decision-making posts at both the local and national levels.

22. Mr. GRISSA noted that, within the context of its positive discrimination policy, Belgium allocated funds on the basis of certain criteria to schools to support foreign French-speaking students from countries that were not in the European Union. He wondered why a knowledge of Dutch was not one of the selection criteria. He also noted that the schools benefiting from such programmes, mentioned in paragraph 202 of the report, were located in the Brussels-Capital Region and the Walloon Region, but not in the Flemish Region. Was it not the case that the Flemish Region also needed the same financial support as other regions?

23. Mr. MARCHÁN ROMERO welcomed Belgium's adoption of a new law on author's rights, which brought its national legislation into conformity with European standards. He noted that, subject to certain conditions, the legislation had authorized the copying of records or films onto cassettes for private use, without the consent of the copyright holder (art. 210). What were those conditions? In addition, the royal decree of 28 March 1996 called for the introduction of a levy for private copying in order to compensate for financial loss to authors, producers and performers. Under that decree, the levy would be paid by the manufacturer or importer of blank cassettes or of equipment for audio or audiovisual recording. He asked why it fell to the manufacturers or importers to pay the levy rather than to the persons reproducing the works. Lastly, what was meant by the expression "uses recognized as such by the profession" contained in the law of 30 March 1994?

24. Mr. ANTANOVICH pointed out that questions 37 and 38 on the list of issues, relating to the right to participate in cultural life, had not been answered. Given the linguistic tensions referred to in the country profile (E/C.12/CA/BEL/1) and the language barrier separating the three regions, was there not a risk that they would follow different cultural paths? Were there norms for harmonizing access to culture in the various regions? What measures was the federal Government taking to facilitate access to culture for young people, the disabled, the elderly, immigrants and so forth?

25. Mr. ATANGANA, observing that available statistics showed that the wages of teachers in the Flemish community somewhat illogically decreased as they acquired experience, asked whether the Government planned to take measures to remedy the situation.

26. Mr. GRISSA said that with regard to access to culture the State party referred only to the Flemish community both in the report (para. 215) and in its written replies. Why was no mention made of the Walloons?

27. Mr. WIMER ZAMBRANO asked how the system of subsidies for culture and education was organized. Was it the responsibility of the federal Government, or of local government, or was that responsibility shared?

28. Mr. AHMED drew attention to the ambiguity of Belgian's education policy: not only had education costs risen considerably in recent decades, but budget restrictions had been imposed on the education sector in an effort to make good the public-sector deficit. The Flemish community, in particular, had had to make drastic budget cuts and many posts in the education sector had been abolished. Must the teachers look to the federal courts or regional courts for compensation? Which body was competent to deal with the matter?

29. Mr. VANDAMME (Belgium) explained that, for administrative and bureaucratic reasons, it had been difficult to obtain from the various regions and communities all the data needed for the drafting of the report. The resultant imbalance did not accurately reflect the situation. In practice, such matters, for which the communities were responsible, were covered by a vast array of regulations. Belgium would take steps to make good that shortcoming when it came to prepare its next periodic report.

30. Mr. NAYER (Belgium) described how the Government of Belgium's French community and civil society as a whole intended to promote culture, together with education, so as to foster citizens' development and their economic and social integration. According to the Government's policy statement, made public in July 1999, culture was an importance issue in the French community, which intended to expand cultural policies in coordination with the regions and the federal State. A factor of social empowerment, culture must also consolidate social ties. Consequently, a special effort was called for in favour of disadvantaged population groups, which were often deprived of access to culture for geographical, financial and even cultural reasons. Synergies needed to be fostered between education and the cultural sector. It was vital to recognize cultural diversity, support the cultural expression of population groups of foreign origin and take greater account of regional sensibilities and vernacular cultures. To that end, the decentralization of cultural and arts institutions would proceed with a view to making the dialogue among the various components of Belgium's French community more balanced. Lifelong education and the sociocultural network were instrumental in inculcating not only critical analysis, but also capacities for collective action and the exercise of responsibility. A coherent, ambitious cultural policy would ensure effective support for performers and universal access to all modes of cultural expression.

31. The Department of Lifelong Education of the Ministry of the French Community had launched the "Culture and citizenship" project in 1997. Its first stage was a seminar on "Culture and society". The second stage had focused on exchanges, reflection and discussion among society's cultural protagonists, on major cultural issues. The third stage would be completed in 2001 with the publication of a White Paper entitled "Citizenship and cultural policy", in which cultural actors could voice their positions and discuss their points of view among themselves and with all other actors in society.

32. Mr. VANDAMME (Belgium) pointed out that the various communities practised a policy of multiculturalism. In the field of education, the Walloon Region was taking affirmative action, more in Wallonia than in Flanders, to control absenteeism, school drop-out and poverty, taking into account the Walloon population structure and the particular characteristics of the urban environment. It was true that the report did not clearly state the criteria used and that efforts must be made in that regard when preparing the next periodic report.

33. Mr. DE NEVE (Belgium) said that teachers' salaries had not been cut, but had risen at a slower pace than salaries in the private sector as a whole. Over the years, however, the differences in remuneration had becoming disturbing.

34. As for access by the elderly to culture and education, it must be borne in mind that under the "Cultural Covenant", which predated the federalization of the State, associations characterized by their philosophical or religious tendencies organized cultural activities, in addition to those carried out by the authorities. In particular, those associations took initiatives in favour of the elderly, who often enjoyed cultural advantages not available to the rest of the population. For the most part they comprised the five major mutual health insurance companies, which mainly organized events and courses, and included departments whose activities were specifically designed for the elderly. Likewise, trade unions and other independent associations organized cultural activities, especially for the elderly. Also in the public sector, the communities organized a variety of cultural events.

35. Turning to women's participation in the labour market, he said that the disparity between women and men had dwindled considerably since 1987. The female employment rate, particularly among young women, was approaching that of men. The low female employment rate had been due to the high rate of unemployment among women and to the fact that very few women aged 50 and over worked. That was equally true of both the private and public sectors, but women were nowadays more numerous than men in many departments. Women were poorly represented at senior levels, an imbalance that was also diminishing.

36. On the subject of copyright, a law replacing the law of 22 March 1886 had entered into force in 1994. Its purpose was to modernize copyright protection, given the emergence of new media. While in the past only authors had benefited from the production of their works, the recent law also protected the services of artistes-performers, as well as audiovisual works, sound recordings and radio and television broadcasts. In particular, the authorship rights of artistes-performers were now recognized. The legislator had authorized in very limited cases photocopies of certain publications, while instituting a levy, which was paid to the authors through a compensation fund. The law had not totally done away with past regulations in that it had retained tried and proven provisions, and it also took the future into account, anticipating eventual harmonization among countries of the European Union.

37. Mr. GRISSA remarked that, all in all, the report did not adequately deal with the situation of economic, social and cultural rights in Belgium. In future there must be better coordination among the various departments participating in the drafting of Belgium's report.

38. Mr. VANDAMME (Belgium) said that the next report would be fuller and better balanced.

39. Mr. CEVILLE asked what role the cut in budget spending had played in the reduction in allocations for education in the Flemish community.

40. Mr. WIMER ZAMBRANO requested more precise information on subsidies for education and culture.

41. Mr. VANDAMME (Belgium) said that the dismissal of teachers in Flanders had not been for the sole purpose of reducing the budget deficit, but also to take account of the sharp drop in the birth rate and, hence, in the number of pupils. Tenured teachers who had lost their jobs had been temporarily freed from duty, while those under contract had been cc npensated for a transition period, after which they received unemployment benefits. However, the situation had changed over the previous five years: there was now a dearth of teachers in the Flemish community. Also, the federal Government had recently announced that a larger share of public finances would be transferred to the communities, so that an increase in allocations for education in the Walloon community, and, eventually, in the Flemish community, could be expected.

42. Ms. JIMÉNEZ BUTRAGUEÑO said that the law of 13 April 1995 provided for the inclusion in the Belgian Constitution of a provision to the effect that every child had the right to respect for his or her moral, physical, psychological and sexual integrity. Had it been

incorporated in the Constitution? Moreover, in 1999 Parliament had studied a bill combating child pornography. However, since the Government had changed, would it be necessary to recommence the procedure? What were the Government's intentions in that regard?

43. Mr. VANDAMME (Belgium) replied that the new Government intended to resubmit the bill to Parliament. In addition to the intrinsic interest of the text, its adoption was necessary for ratification of the protocols to the Convention on the Rights of the Child and ILO Convention No. 182 on the Worst Forms of Child Labour.

44. The CHAIRPERSON asked the Belgian delegation whether it wished to make any other comments.

45. Mr. VANDAMME (Belgium) thanked all Committee members for their particularly pertinent comments and questions. His delegation was pleased with the stimulating discussion that had taken place, which had been helped by the well-documented papers submitted by NGOs. It had taken note of the Committee's concerns, including those regarding the applicability of the Covenant in Belgian law, the right of asylum, social and material assistance to refugees, and education. Various human rights problems, especially paedophilia, child pornography and trafficking in persons, had an international dimension and called for cooperation among all countries. The Committee might wish to organize a general discussion on that subject, which would be highly useful to Governments. The delegation would circulate the outcome of the debate in reports drafted by its various members for the public authorities, thereby encouraging them to do more to implement the provisions of the Covenant.

46. The CHAIRPERSON, thanking the Belgian delegation for the spirit of cooperation it had displayed during the consideration of the report, announced that the Committee had completed its consideration of the second periodic report of Belgium.

The meeting rose at 12.10 p.m.